

ORDINANCE NUMBER 1618-U

**AN INTERIM ORDINANCE OF THE CITY OF SEAL BEACH
IMPOSING NEW INTERIM REGULATIONS ON NEW AND
EXISTING VACATION RENTALS AND DECLARING THE
URGENCY THEREOF**

THE CITY COUNCIL OF THE CITY OF SEAL BEACH HEREBY ORDAINS AS FOLLOWS:

Section 1. Interim Regulations Established. Notwithstanding any other ordinance or provision of the Municipal Code, no property shall be used as a vacation rental while this Ordinance is effective except as permitted by the interim regulations set forth in Section 6 of this Ordinance.

Section 2. Term. This Ordinance shall expire, and the interim regulations established hereby shall terminate 45 days after the date of its adoption unless extended by the City Council at a regularly noticed public hearing pursuant to California Government Code Section 65858.

Section 3. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance, and establishment of the interim regulations hereby, will have a significant effect on the environment, because the moratorium imposes greater limitations on vacation rentals in the City than the limitations currently required under the Municipal Code, and will thereby serve to reduce potential significant adverse environmental impacts. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

Section 4. Penalty. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

Section 5. Legislative Findings. On April 9, 2012, the City Council considered the adoption of this Ordinance at a duly noticed public meeting and on the basis of the record thereof finds the following facts to be true.

a. The City's location and proximity to the coast makes it a popular destination for tourists, many of whom choose to stay in residential units such as, but not limited to, single-family and multiple-family dwelling units, apartment houses, condominiums, cooperative apartments, triplexes, and duplexes on a fewer than 30 days basis as vacation rental units.

b. Based on experience in the City and in other jurisdictions, it is known that short-term vacation rentals have the potential to create negative land use impacts for neighboring residential uses. These include but are not limited to noise disturbances due to late night arrivals and parties with numerous guests and amplified music, insufficient parking, and unsanitary and unsightly trash accumulation. These problems are exacerbated when multiple units on the same property are rented on a short-term basis at the same time and/or to large groups. Moreover, because short-term occupants do not stay in the residence for longer periods, they and their guests have less personal incentive to moderate their behavior to avoid negatively impacting neighboring residents.

c. The City Council previously enacted Section 11.4.05.135 of the Municipal Code, which requires vacation rentals to obtain a conditional use

permit ("CUP") and meet certain minimum operational standards. Notwithstanding enactment of Section 11.4.05.135, some vacation rentals in the City have continued to negatively impact neighboring residents.

d. The City intends to study, within a reasonable time, the adequacy of its existing ordinances regulating vacation rentals. The Planning Commission, the City Council and the people of Seal Beach require a reasonable, limited, yet sufficient period of time to consider and study legally appropriate and reasonable policies regulating vacation rentals in order to prevent negative impacts on neighboring residents. Given the time required to undertake the study and planning this situation calls for, the City Council finds that it is necessary to enact interim regulations to ensure that operation of vacation rentals that may be in conflict with the contemplated new development policies are not permitted in the interim. The City Council has the authority to adopt an interim ordinance pursuant to the City Charter and Government Code Section 65858 in order to protect the public health, safety, or welfare.

e. Accordingly, the City Council finds that there is a current and immediate threat to the public health, safety and welfare presented by operation of vacation rentals not in conformance with the interim regulations set forth below in Section 6. The summer rental season is rapidly approaching and the operation of vacation rentals pursuant to the City's existing regulations will result in that threat to the public welfare unless the interim regulations are immediately effective. Due to the foregoing circumstances, it is necessary for the preservation of the public health, safety and welfare for this Ordinance to take effect immediately. This Ordinance is an urgency ordinance for the immediate preservation of the public peace, health, and safety within the meaning of Government Code Section 36937(b) and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

f. All legal prerequisites to the adoption of this Ordinance have occurred.

Section 6. Interim Regulations. Notwithstanding any other ordinance or provision of the Municipal Code of the City of Seal Beach, vacation rentals must comply with the following interim regulations.

a. Permit and Operational Requirements. The approval and operation of a vacation rental shall be subject to the following requirements:

i. Conditional Use Permit Required. The establishment and operation of a vacation rental in the RLD-9 and RHD-20 Districts shall require the approval of a Conditional Use Permit in compliance with Chapter 11.5.20 of the Municipal Code.

ii. Maximum Number of Units Without a Conditional Use Permit. No more than 2 vacation rental units shall be allowed on any single parcel unless the property owner obtains a conditional use permit ("CUP") to exceed the maximum number. The City shall not issue a CUP to allow any parcel to contain more than 2 vacation rental units unless at least one of the non-vacation rental units is occupied by either the property owner or a property manager responsible for compliance with the operational and performance standards set forth in this Section.

iii. Business License Required. A Business License is required for the establishment and operation of a vacation rental.

iv. Transient Occupancy Tax. The Transient Occupancy Tax Remittance form shall be completed, and the owner or manager shall pay the Transient Occupancy Tax.

v. Maximum Length of Stay. Visitor occupancy shall be limited to a maximum of 29 consecutive days.

vi. Fire and Life Safety. Fire and life safety requirements as required by the Fire Authority and the Building Department shall be implemented. These requirements include, but are not limited to approved smoke detectors in each lodging room, installation of an approved fire extinguisher in the structure, and the inclusion of an evacuation plan posted in each lodging room.

vii. Annual Inspection. Each vacation rental shall comply with the annual fire and life safety certification procedures of the Orange County Fire Authority.

viii. Secondary Use. A vacation rental in the Commercial Zone shall be allowed only in conjunction with an approved commercial use.

ix. Check-in Time. First-day arrival at a vacation rental is prohibited after 9:30 p.m. All lease or rental agreements must include this prohibition.

x. Check-out Time. Vacation renters must vacate the unit before noon on the final day of their tenancy.

xi. Renter Information and Acknowledgement. Prior to occupancy of a short-term vacation rental unit, the owner shall: (i) obtain the name, address, and a copy of a valid government identification of the primary adult occupant of the short-term vacation rental; and (ii) require the primary adult occupant to execute a formal acknowledgement that he or she is legally responsible for compliance of all occupants of the short-term vacation rental or their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term vacation rental. The acknowledgement must include the text of Section 7.45.010 of the Municipal Code, which provides as follows:

"Upon the initial response of the police department to any disturbance involving loud, unnecessary and unusual noise, the chief of police may, in lieu of or in addition to taking other action authorized by law, give notice to the person or persons in actual or apparent control of the activity creating the disturbance, or to the person or persons in actual or apparent control of the property or premises wherein the disturbance has occurred, or both, that liability may be imposed upon the person or persons receiving such notice for the costs to the city of any subsequent response by the police department in connection with any continuation or resumption of such disturbance. Such notification shall be in such form as may be approved by the chief of police. The costs of any subsequent response shall be assessed to the person or persons receiving such notice and shall include all costs reasonably incurred by the city in providing law enforcement services and equipment at the scene of the disturbance, including the cost or value of the time expended by police department personnel in making any subsequent response. The method of computing such costs shall be established by the chief of police and approved by the city council. The finance department shall invoice such costs to the person or persons liable therefor under this chapter, and such costs shall constitute a debt to the city and be collectible by the city in the same manner as in the case of an obligation under a contract; provided, however, that in no event shall a person's liability hereunder exceed \$1,000 for any single subsequent response."

This information and acknowledgment shall be maintained by the owner for a period of three years and shall be readily available upon request of any police officer or employee of the city authorized to enforce this Ordinance or any applicable law, rule or regulation pertaining to the use and occupancy of the short-term vacation rental.

xii. Trash. Trash and refuse must not be left stored within public view, except in proper containers for the purpose of collection by the City's authorized waste hauler on scheduled trash collection days. The owner or property manager must provide sufficient trash collection containers and service to meet the demand of the occupants.

xiii. Lease Terms: Each new lease or rental agreement for a short-term vacation rental must have a copy of these Permit and Operational Requirements attached to it and must include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the unit:

1. The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property.

2. Notification that the occupant may be cited or fined by the City for violation of any provision of the Municipal Code, including but not limited to amplified sound, including radios, televisions and other electronic devices, that creates a noise disturbance in violation of Chapter 7.45 of the Seal Beach Municipal Code.

3. A recommendation that the occupant participate voluntarily in neighborhood quiet hours by avoiding parties and loud social events between the hours of 10:00 p.m. and 7:00 a.m.

4. The name of the owner or property manager and a telephone number at which that party may be reached at all times.

xiv. Response to Complaints. The property owner or manager must provide the City with a phone number at which he or she can be contacted on a 24-hour basis regarding nuisance complaints arising at or from the use of the property as a vacation rental. Upon receipt of a nuisance complaint or upon notification that any occupant or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Municipal Code or any state law, the owner or property manager must respond within 45 minutes of receiving such notification and must promptly take corrective action to immediately prevent a recurrence of such conduct by those occupants or guests. Failure to timely respond to calls or complaints as required or take timely corrective action regarding the condition, operation, or conduct of occupants of the short-term vacation rental shall be a violation of this Ordinance. Nothing in this Ordinance shall be construed to require or authorize an owner or property manager to act as a peace officer or to intervene in situations that pose a risk to personal safety. The owner or property manager must maintain records of the name, violation, date, and time of each complaint, disturbance, and response and corrective action by owner. Such records must be maintained for at least three years.

xv. Additional Conditions. Additional conditions on the use of any given short term vacation rental unit to ensure that any potential secondary effects unique to the subject vacation rental unit are avoided or adequately mitigated may be imposed pursuant to any CUP required by this Ordinance.

b. Licensed Vacation Rentals. Any existing, licensed vacation rentals shall be allowed to continue as a legal, nonconforming use provided it

complies with the requirements set forth in subsection a(ii) through subsection a(xiv), above. For the purpose of this subsection, "licensed" shall mean a vacation rental which as of January 1, 2010, had and has continuously had a valid business license and has registered to pay the Transient Occupancy Tax pursuant to Title 4: Revenue and Finance, Chapter 4.35: Transient Occupancy Tax of the Municipal Code.


Section 7. Abatement and Amortization – Vacation Rental Units in Excess of Numerical Limit. Upon the effective date of this Ordinance, no property may have more than 2 vacation rental units. Notwithstanding the preceding sentence, if the owner supplies to the City proof of a rental agreement fully executed as of April 9, 2012 for use of a vacation rental unit after the effective date of this Ordinance, that unit may continue to be used as a vacation rental unit until termination of the previously existing agreement. Such proof must be supplied to the City no later than April 16, 2012. In no event shall a nonconforming vacation rental continue operating after September 1, 2012. The owner of the property may request an extension from the City Council of the abatement period in order to amortize the property owner's investment. Such request must be made in writing setting forth the length of the requested extension of the abatement period and any and all supporting evidence. The owner shall bear the burden of proof. The City Council shall consider the request at a public hearing and may consider the following: (i) the length of the abatement period in relation to the owner's investment in the use of the property as a vacation rental; (ii) the length of time the vacation rental was operating prior to the date of nonconformity; and (iii) the potential harm to the public if the use remains beyond the abatement period. The decision of the City Council shall be final.

Section 8. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance or any part hereof. The City Council of the City of Seal Beach hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 9. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

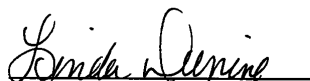
PASSED, APPROVED AND ADOPTED by the City Council of the City of Seal Beach at a meeting thereof held on the 9th day of April, 2012.




Mayor

ATTEST:

APPROVED AS TO FORM


City Clerk


Quinn M. Barrow, City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS
CITY OF SEAL BEACH }

I, Linda Devine, City Clerk of the City of Seal Beach, California, do hereby certify that the foregoing ordinance is an original copy of Urgency Ordinance Number 1597-U on file in the office of the City Clerk, passed, approved and adopted by the City Council of the City of Seal Beach, pursuant to the City Charter and Government Code § 36967(b), at a meeting held on the 9th day of April, 2012 by the following vote:

AYES: Council Members Deaton, Gerritt Miller, Shanks, Sherr
NOES: Council Members None
ABSENT: Council Members None
ABSTAIN: Council Members None

and do hereby further certify that Urgency Ordinance Number 1618-U has been published pursuant to the Seal Beach City Charter and Resolution Number 2836.

Linda Devine
City Clerk